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April 23, 2004

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DISTRICT COURT
DISTRICT OF MASS.

Via Hand Delivery

Honorable Chief Magistrate Judge Marianne Bowler
United States District Court
Courthouse Way
Boston, MA 02210

01-12257-PBS

Re: In re Pharmaceutical Industry Average Wholesale Price Litigation

Dear Magistrate Judge Bowler:

On behalf of Class Plaintiffs in MDL 1456 we are writing with respect to compliance with Case Management Order No. 10 ("CMO No. 10"). In particular, Section II.4 of CMO No. 10 provides that:

4. A responding party to an initial document request shall complete production of all documents within 60 days of service of such request. Any dispute over the document request (i.e., over breadth or burden) shall be presented to the Magistrate Judge within 30 days after service of the request after the parties have conferred.

The first request served after entry of CMO No. 10 was served on all defendants on March 31, 2004. As we read CMO No. 10 any disputes over these requests have to be presented to you by May 3, 2004.

Plaintiffs have begun the meet and confer process with several of the Phase 2 or regular track defendants. For example we met with defendant Immunex on April 20, 2004. We believe we are making progress regarding production issues. We will not know for certain whether we have any disputes to present until we review Immunex' production and work further on production issues. Any disputes we do have will be narrower than would otherwise be the case absent a bit of time to work out on solutions as opposed to presenting a dispute to you by the deadline of May 3, 2004.

April 23, 2004

Page 2

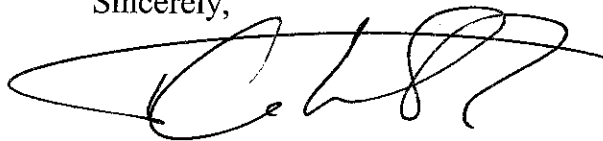
Thus, we propose where plaintiffs and a Phase 2 defendant jointly agree that it is preferable to work past the 30-day period set for presenting a dispute to you, that the parties be allowed to do so.

We write because we did not want to simply ignore the 30-day period, and request permission to proceed as outlined above where appropriate.

To my knowledge all Phase 2 defendants agree with this request. This does not mean that where matters with Phase 2 defendants are known to be at issue that they will not be presented by May 3, 2004. This does not apply to the fast track defendants.

If Your Honor wishes to have this presented by way of stipulation we are prepared to do so.

Sincerely,

A handwritten signature in black ink, appearing to be 'T. Sobol', written over a horizontal line.

Thomas M. Sobol
for Steve W. Berman

SWB:taw

cc: All Counsel (via Verilaw)